

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM JUNE 28, 2012
OPEN SESSION

MINUTES OF JUNE 28, 2012 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN FOSTER CAMPBELL, VICE CHAIR JIMMY FIELD AND COMMISSIONERS LAMBERT BOISSIERE, ERIC SKRMETTA AND CLYDE HOLLOWAY. ALSO PRESENT WAS EVE KAHAO GONZALEZ.

Open Session of June 28, 2012, convening at 9:12 A.M. and adjourning at 11:25 A.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Eve Kahao Gonzalez.

Ex. 1 Announcements

Commissioner Holloway announced that Kathleen LeBoeuf is retiring as of tomorrow and thanked her for her 30 plus years of service with the Commission.

Ex. 2 **R-30297** - Louisiana Public Service Commission, ex parte. In re: Discussion and possible vote on the exemption of motor carriers of waste from having to prove public convenience and necessity when applying for a common carrier certificate or contract carrier permit, but maintaining the requirement that said carriers register with the Commission and satisfy all rules, regulations and requirements of the Commission, including proof of fitness to operate. In addition, discussion on the burden of proof required in proving public convenience and necessity and Rule 33 of the Rules of Practice and Procedure of the Louisiana Public Service Commission, Special Rules Applicable to Contested Operating Authority Cases and possible vote on changes in the present burden of proof and Rule 33 and any other rule applicable to the trial of public convenience and necessity cases.

In re: Petition for Reconsideration of General Order dated May 30, 2012 filed on behalf of Vacuum Truck Carriers of Louisiana and its member carriers, Vanguard Vacuum Trucks, LLC, Stafford Transport of Louisiana, Inc. dba CEI and Stranco Inc.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to grant the Petition for Reconsideration filed on behalf of Vacuum Truck Carriers of Louisiana and its member carriers, Vanguard Vacuum Trucks, LLC, Stafford Transport of Louisiana, Inc. dba CEI and Stranco Inc.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioner Boissiere concurring and Commissioners Campbell and Holloway objecting, the Commission voted to rescind the Commission's vote of May 23, 2012, in which the Commission adopted Option One in this matter. It was further ordered that Option Two contained in Staff Recommendation be adopted and made effective immediately, with the following modifications: 1) The addition of the following sentence at the beginning of Part A. "An applicant applying for a Contract Carrier permit of waste shall prove that the grant of authority is in the public interest." 2) The replacement of Part A, Paragraph 2 with the following language: "The mere addition of competition is not sufficient to defeat an application for authority; however, an existing LPSC certificated or permitted carrier(s) may offer evidence that the proposed grant of authority will have a substantial and detrimental impact upon its capital investment and upon such a finding by the Hearing Examiner and/or ALJ the application can be denied."

Counsel for the parties who filed the Request for Reconsideration, Janet Boles, acknowledged her acceptance of Commissioner Field's motion and committed not to appeal the final order.

Ex. 3 **S-32297** - Utilities, Inc. of Louisiana and Louisiana Water Service, Inc., ex parte. In re: Request for a Letter of Non-Opposition regarding the indirect change of control of UIL and LWS.

In re: Discussion and possible vote on requested Letter of Non-Opposition.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the proposed change of control transaction subject to the following conditions: 1) Corix shall provide the Commission's Staff with a signed copy of all the purchase documentation within 30 days from

the acquisition date; 2) The value of Utilities Inc. of Louisiana and Louisiana Water Service shall be recorded on Corix's books and records at the lower of the net book value or acquisition cost at the time of the transfer, and Corix shall maintain all accounting records to verify the sale. It was further ordered that Staff is authorized to issue a letter of approval and/or non-opposition accordingly.

Ex. 4 **U-31711** - CenterPoint Energy Entex, ex parte. In re: 09/10 Fiscal Year Louisiana RSP Filing **consolidated with U-31714** - CenterPoint Energy Arkla, ex parte. In re: 09/10 Fiscal Year Louisiana RSP Filing.

In re: Discussion and Possible Vote on Proposed Uncontested Stipulated Settlement Agreement.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the June 14, 2012 Proposed Uncontested Stipulated Settlement Agreement executed by Staff, CenterPoint Energy Arkla and CenterPoint Energy Entex.

Ex. 5 **U-32300** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application of Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C. for Approval of Interim Extension of Independent Coordinator of Transmission Arrangement and Change of Services Provider from Southwest Power Pool, Inc. to Midwest Independent Transmission System Operator, Inc.

Last month's Ex. 9.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to exercise its original and primary jurisdiction and bring this matter up pursuant to Rule 57.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation, provided that it incorporates a condition in the event that MISO ceases to act as the ICT and EGSL and ELL do not join the MISO RTO and EGSL and ELL seek to recover any additional costs associated with substitute ICT arrangements or for a replacement entity to perform ICT-like functions, EGSL and ELL bear the burden of demonstrating that their ratepayers were no worse off than they would have been had SPP remained the ICT and that such additional costs are reasonable and were prudently incurred.

The Commission further directed, regarding the role of an Independent Monitor to provide services to MISO as the ICT, EGSL and ELL shall file, a motion to supplement their request to extend the ICT to address this request for the engagement of an Independent Monitor. That motion should address the functions to be performed by the Independent Monitor, whether the concerns of Entergy's other retail regulators are satisfied with Entergy's proposal and the cost of these monitoring functions. The motion should, at a minimum, be supported by one or more affidavits. The Executive Secretary is empowered to establish a procedural schedule after the filing allowing at least a week for Intervenor and Staff to file comments and at least a week for reply comments. The Commission will take this matter up at the July or September B&E, depending upon the time of the filing of the motion and supporting materials.

Ex. 6 **X-32288** - Louisiana Public Service Commission, ex parte. In re: Examination of Past, Present, and Future Natural Gas Pricing.

In re: Report by Utilities.

Last month's Ex. 15.

Michelle Thierry, on behalf of Entergy Services, Inc.; Kenny Malter, on behalf of Atmos Energy; and Kent Armstrong, on behalf of CenterPoint Energy gave a presentation on current and long-term natural gas prices and answered questions from the Commissioners.

Ex. 7 **U-31125** - Entergy Louisiana, LLC and Entergy Gulf States Louisiana, L.L.C., ex parte. In re: Application for certification of nuclear power plant siting and licensing activities.

In re: Discussion and possible vote on ALJ Final Recommendation

In re: Oral Argument requested by LEUG, Entergy and Staff.

Last month's Ex. 5.

Commissioner Holloway offered a motion, seconded by Commissioner Campbell, to approve the ALJ Recommendation without oral argument.

Commissioner Skrmetta offered a substitute motion, which was seconded by Commissioner Boissiere, to remand the matter to the ALJ with instructions to have the ALJ identify in the record the facts supporting her finding that the Companies had undertaken advance preparation activities and also to make specific recommendations regarding other relief requested by the Companies.

However, this motion failed three to two.

Commissioner Holloway's original motion was called back up for a vote. With Commissioner Campbell seconding, Commissioner Field concurring and Commissioners Boissiere and Skrmetta objecting, the Commission voted to deny the parties' request for oral argument and accept the ALJ Recommendation and deny the Companies' Application for Phase 1 certification and other relief.

Further, the Commission directed that the costs associated with developing an option for new nuclear at the Riverbend site be reviewed in the upcoming January 2013 ELL and EGSL rate review proceedings.

Ex. 8

R-31825 - Louisiana Public Service Commission, ex parte. In re: Possible Amendment to Section 501 A (c) and (e) of the Regulations for Competition in the Local Telecommunications Market (White Page Directory Distribution Requirement).

Request by Commissioner Campbell to open R-31825 Subdocket A to (1) gather and evaluate information on costs and savings associated with the elimination of the annual publishing and distribution of White Pages and the customer opt-in program, and (2) establish reporting requirements for the costs and savings, as well as opt-in program participation rates.

Commissioner Campbell directed Staff to 1) gather and evaluate information on costs and savings associated with the elimination of the annual publishing and distribution of White Pages and the customer opt-in program, and (2) establish reporting requirements for the costs and savings, as well as opt-in program participation rates.

General Counsel Dennis Weber informed the Commission that a letter has gone out to all telecommunication service providers requesting this information, and that Staff is awaiting their responses.

Ex. 9

LPSC, ex parte.

In re: Discussion and Possible vote to adopt an Order providing: 1) all over-collected Inspection and Supervision Fund Fees, Motor Carrier Fund Fees and Do Not Call Fund Fees should be refunded to Commission-jurisdictional ratepayers, and 2) Staff shall work on establishing proposed rules and mechanisms for refunding such over-collections.

Last month's Ex. 17.

On motion of Commissioner Skrmetta, seconded by Commissioner Holloway, and unanimously adopted, the Commission voted to accept Staff Recommendation and adopt the draft order regarding the refunding of over-collected I&S fees.

Ex. 10

- 1) Reports
- 2) Resolutions
- 3) Discussions

Commissioner Field shared a portion of a Wall Street Journal article he read yesterday regarding U.S. dependence on oil from the Middle East.

Commissioner Boissiere thanked everyone for helping to make SEARUC successful.

Commissioner Campbell stated that Greater Ouachita has signed a letter of intent to purchase LLWC and that he hopes this sale goes through. He further stated that he would like Henderson Ridge to submit a budget for under \$50,000 to assist Staff in this matter to be voted on in July or, if necessary, September B&E.

Ex. 11 Report from Staff on status of audits of purchased gas adjustments of jurisdictional gas utilities.

At the request of Commissioner Campbell.

Deputy Assistant Secretary Arnold Chauviere gave a report on the status of audits of purchased gas adjustments of jurisdictional gas utilities and answered questions by the Commissioners.

Ex. 12 **R-30021** - Louisiana Public Service Commission, ex parte. In re: Development and Implementation of Rule for Integrated Resource Planning for Electric Utilities.

In re: Discussion and possible vote to hire J. Kennedy and Associates to assist Staff in its review of the Investor Owned Utilities' initial Integrated Resource Plan ("IRP") filings in accordance with the Commission's April 18, 2012 Order

At the request of Commissioner Field.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the budget proposal submitted by J. Kenney & Associates for consulting services of \$7,500 plus expenses not to exceed \$1,000 to assist Staff in this matter.

Ex. 13 Directive by Commissioner Field initiating an evaluation of the 10.5% allowed Return on Equity in Entergy Gulf States Louisiana, L.L.C.'s current Rate Stabilization Plan for its retail gas operations and hiring a consultant for this evaluation.

At the request of Commissioner Field.

Commissioner Field directed Staff to 1) Initiate a proceeding to review EGSL-Gas' Return On Equity and publish notice of this proceeding in the next Commission Bulletin; and 2) Make a filing supported by testimony and other relevant evidence no later than August 1, 2012. In this filing, Staff should provide an analysis of the current ROE and justification for any proposed changes to the ROE. Efforts should be made to permit a Commission decision on this matter by the December 2012 B&E.

On motion of Commissioner Field, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to retain Exeter Associates, Inc. for a budget of \$22,000 with fees in the amount of \$20,000 and expenses not to exceed \$2,000, consistent with Exeter's proposal dated June 25, 2012.

Ex. 14 **S-32320** - Reserve Communications and Computer Corporation ("RCC"), RTC Holdings, LLC, Reserve Telephone Company, Inc. ("Reserve Telephone") and Reserve Long Distance Company, Inc. ("Reserve LD"), ex parte. In re: Request for Approval/ Letter of Non-Opposition to Pledge of Security in Connection with Debt Incurrence, Issuance of Guarantees and Pledge of Assets as Security for Reserve Communications and Computer Corporation, RTC Holdings, LLC, Reserve Telephone Company, Inc. and Reserve Long Distance Company, Inc.

At the request of Commissioner Boissiere.

On motion of Commissioner Boissiere, seconded by Commissioner Campbell, and unanimously adopted, the Commission voted to issue an order stating its approval of the transaction as filed, including approval of RCC's incurrence of debt pursuant to the Credit Facilities, the Companies' issuance of guarantees to secure the Credit Facilities, and RCC's

and the Companies' granting of security interests in and mortgages on their assets (including RCC's ownership interests in Reserve Telephone and Reserve LD), together with any other subsidiaries party thereto, as the financing will serve the public interest while at the same time having no negative impact on the ratepayers or the Commission's jurisdiction.

Ex. 15 Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC, ex parte - In re: Request for partial waiver of the Commission's General Order No. R-26172-C, as amended October 15, 2008, to allow Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC to participate in an anticipated Request for Proposals for Long-Term Supply-Side Stable Price Baseload Resources.

At the request of Commissioner Holloway.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to grant Entergy Gulf States Louisiana, L.L.C. and Entergy Louisiana, LLC waivers to Paragraph 14 the Commission's Market Based Mechanism's Order as requested in its advance notice to the Commission dated June 22, 2012 regarding its upcoming Request for Proposals for Long-Term Supply-Side Stable Price Baseload Resources. The Commission authorized a waiver of the 30 day advance notice requirement by shortening this period to 25 days, and the Commission authorized a waiver of the 60 day minimum review period between the draft RFP and the issuance of the final RFP by shortening this period to 30 days. As the Staff requires the assistance of an outside consultant to assist the Staff with monitoring Entergy's RFP, and due to the waivers authorized by the Commission, it is necessary for a hiring decision to be made at the Commission's July Open Session. The Commission further authorized the Commission Staff to shorten the 25 day bid response time in the Commission's August 4, 2004 General Order regarding hiring contract employees to 14 days, so that a hiring decision could be made at the July B&E.

Ex. 16 **S-32078** - Cecilia Water Corporation, ex parte. In re: Request for an increase in water rates for capital improvements. (Non-Profit System).

In re: Discussion and possible vote on Interim Rate Increase.

At the request of Commissioners Field and Holloway.

On motion of Commissioner Holloway, seconded by Commissioner Field, and unanimously adopted, the Commission voted to authorize an interim rate increase for Cecilia Water to be effective for ninety (90) days. The interim rate will increase the residential rate for up to 2,000 gallons of consumption from \$10 to \$14 and increase the rate per 1,000 gallons above the minimum rate for all classes from \$4.00 to \$4.50, subject to appropriate bonding and security requirements.

MEETING ADJOURNED

The next Business and Executive Session will be held July 18, 2012 at 9:00 a.m. in Baton Rouge, Louisiana.